

Dealer Newsletter

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*Candice S. Miller,
Secretary of State*

Internet home page
www.sos.state.mi.us/bar/

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Year 2000 laws impact dealers

Michigan's legislature passed a number of bills in 2000. Following is a brief description of several bills that may affect dealers:

Franchise Law—Public Act 239, effective June 28, 2000, amends the franchise law, and prohibits manufacturers, importers, or distributors from directly or indirectly owning, operating, or controlling a dealership which sells new motor vehicles. There are provisions in the law to permit manufacturers to operate a dealership during a transitional period, e.g., during the sale of a dealership from one owner to another. The legislation does not affect dealerships already directly or indirectly owned by the manufacturer prior to May 1, 2000.

VIN Tampering, Receiving and Concealing Law—Public Act 217 went into effect on October 1, 2000. This legislation amends the receiving and concealing section of the Michigan Penal Code. It is now a felony for a person to buy, receive, or obtain control of a motor vehicle or motor vehicle part knowing the identification number has been removed, obliterated, tampered with, or altered.

It is also a felony to knowingly possess, buy, deliver, or offer to buy, sell, exchange, or give away any manufacturers' VIN plate, federal safety certification label, antitheft label, posident die stamp, Secretary of State VIN labels, rosette rivet, or any facsimile thereof. The law contains several new definitions including posident die stamps and rosette rivets.

Driver Education Vehicle Law—Senate Bill 1343 has passed both the House and the Senate and the Governor is expected to sign the legislation. Once signed, the law will take immediate effect.

The legislation amends the Michigan Vehicle Code to permit dealers to *lease* vehicles to school districts for driver education programs without branding the vehicle's title later as a municipal vehicle.

Previously, dealers could loan vehicles to school districts without branding the title as municipal. Dealers are still required to disclose to the first retail buyer on the RD-108 that the vehicle was previously used as a driver education vehicle. This requirement applies to both vehicles loaned and leased to school districts when the vehicle is returned to the dealership.

Multi-Year Vehicle Registration—Public Act 36 of 2000 amends the Michigan Vehicle Code to permit the Secretary of State to issue vehicle registrations for more than one registration period. Registration periods typically are one full year. The new law takes effect April 1, 2001. Implementation details have not yet been determined but the legislation does provide that registrations for lease vehicles shall expire on the date the lease expires. Dealers will receive information later about how to purchase multi-year registrations for their customers.



Salvage vehicle sales to out-of-state residents: Six percent sales tax always due

One of the more complicated sales a dealer may face is the retail sale of a salvage-titled vehicle to an out-of-state resident. Normally, selling a vehicle (clean-titled) to an out-of-state resident requires that a 14-day intransit permit be purchased. The intransit permit performs three functions:

1. Provides a 14-day temporary driving permit to the purchaser for transporting the vehicle to his/her home state.
2. Provides a record of sales tax paid, if the purchaser's home state has a tax reciprocity agreement with Michigan (see *Section 8-5 of the Dealer Manual*). This prevents the purchaser being "double-taxed" by both Michigan and their home state.
3. Provides a record "on-system" with the Michigan Secretary of State. This is vital to replacing a title that is lost before conversion by the purchaser's home state.

The problem with a salvage vehicle sale, however, is that the Michigan Vehicle Code prohibits issuance of a registration of any kind on a salvage vehicle that has

not been rebuilt and inspected for highway use. Since the intransit permit is a type of registration, one cannot be obtained for a salvage vehicle. This, of course, prevents any official record of paid sales tax.

Therefore, if selling a salvage vehicle to an out-of-state resident, the dealer is *required by Michigan tax laws to collect 6% Michigan sales tax*. The resident will have the responsibility to resolve any double-taxation issues with his/her home state and/or the Michigan Department of Treasury. For information on sales tax, contact the **Sales, Use and Withholding Taxes Division of the Michigan Department of Treasury** at (517) 373-3190.

Finally, to avoid possible problems with the purchaser regarding double-taxation, it is advised that all dealers disclose *in writing* the above information. This may be of benefit if a complaint is filed against the dealer after the sale. The purchaser should also be advised not to delay titling the vehicle in their home state to avoid loss of the title.



List Sales Opt-Out eliminated

In the past consumers could complete a "List Sales Opt-Out" form to prevent personal information from being released for survey, marketing and solicitation purposes. In many instances dealers submitted these forms on behalf of their customers. As of June 1, 2000, however, state law prohibits the sale of lists for any of these reasons. Consequently, completion of the opt-out form is no longer necessary.

RD-108 processing: lessor/lessee information required

When completing an RD-108 for a leased vehicle, the dealer should add the word "LESSOR" (or "LSR") after the lessor's information, and the word "LESSEE" (or "LSE") after the lessee's information. While it seems logical that the dedicated boxes for lessor and lessee on the new RD-108 would sufficiently identify the two parties, this is not always the case. Continuing to denote the lessor and lessee will ensure that information is recorded properly in the title record.

Do you know your body styles?

Sometimes confusion over which body style to record on the RD-108 results in the wrong plate being issued to a customer. One example would be a "passenger car" plate being improperly issued to the owner of a four-door, extended-cab pickup truck because the RD-108 showed the body style as "4-door" instead of "pickup".

This obviously results in difficulties to the customer, the dealer, and Secretary of State branch office staff. The Bureau has made body style definitions and related information available in the **Dealer Manual, Section 7-4.19**. A dealer should be able to use this table to quickly identify the proper body style. However, if there are uncertainties that are not resolved by the manual, you may contact the Dealer Program Section at (517) 373-9082 for assistance.



Registration Denial database available to dealers on-line

As a result of the registration denial provisions of the **Repeat Offender laws**, dealers may access the Department's registration denial database to verify whether a customer's driver license or personal identification number is valid and whether he or she is eligible to register a vehicle. The registration denial database is located at:

www.sos.state.mi.us/repeat.html

There are two types of inquiries that are available after reaching the site, driver license number or a personal identification number. When an inquiry is made, one of several different responses will be returned. They include:

- A confirmation that the "purchaser is eligible for vehicle registration."
- A warning that the "purchaser may be denied vehicle registration."
- A response that either the driver license or personal identification number is invalid.
- A response that the Department of State has no record of either the driver license or personal identification number entered with a request to "Resubmit entry: Department of State has no record of this number."

Dealers are advised to enter a driver license or personal identification number with care, as the number entered may be a legitimate number that belongs to a person other than your customer.

Secretary of State joins forces with attorney general against unlicensed dealer

In an effort to protect the public, and alleviate licensed dealers' concerns over unfair competition, Secretary of State Candice S. Miller and Attorney General Jennifer Granholm announced on August 31 that a lawsuit had been filed to put an end to the unlicensed dealer activity of Sandra Jewell. A settlement which may include a substantial fine, is currently being negotiated.

Jewell, of Rochester Hills, had been operating dealerships in Oakland and Macomb counties, and has allegedly violating the Michigan Vehicle Code, which authorizes the Secretary of State to investigate unlicensed dealers.

An injunction was filed in Ingham County Circuit Court, after an investigation by the Bureau of Automotive Regulation revealed an unusually high number of vehicle titles bearing Jewell's name.

Secretary of State records indicate Jewell had more than 80 vehicles titled in her name, but not registered to her, as of May 2000. This suggests that she is purchasing vehicles exclusively for resale. Of the 10 vehicles identified in the lawsuit, Jewell realized an average profit of nearly \$1,200 per vehicle.

"Sandra Jewell is acting as a dealer and leaving her customers no recourse if they have problems with the vehicles they purchase," Secretary Miller said. "Our mission is to protect consumers from such dishonesty by ensuring the laws regarding automotive dealerships are enforced, and I am prepared to take action against anyone who is buying, selling, or dealing in vehicles without a license."

Jewell was first placed on notice by the Secretary of State's Office in July 1999 when it was discovered that she had a large number of vehicles titled to her. She was warned that under the law her

behavior was interpreted as acting as a dealer and that she would need to file for a dealership license. The lawsuit also contends that by failing to be licensed, Jewell is deceiving the public, which is a violation of the Consumer Protection Act.

"If Ms. Jewell walks like a dealer, talks like a dealer and sells cars like a dealer then she is indeed running an unlicensed dealership," Attorney General Granholm said. "To be fair to those that are licensed and, most importantly, to protect the public this illegal operation must be topped."

The majority of complaints against unlicensed dealers result from Secretary of State staff who notice the same individuals repeatedly returning to branch offices to title vehicles. Questions about individuals' activities are also raised when titles are processed at the central Secretary of State offices in Lansing.

"Our primary responsibility is to ensure the laws are properly followed and to take steps to correct situations when violations occur," Secretary Miller said. "It would be in the best interests of everybody if Ms. Jewell were properly licensed as a dealer and demonstrated an intent to obey the laws."

MV-17 eliminated

FYI... The MV-17 dealer reassignment form is being eliminated, and will not be available after January 1, 2001.

Current licensee information available on-line

FYI... Listings of currently licensed dealers and currently registered repair facilities are available on the BAR website at **www.sos.state.mi.us/bar/**. The lists are arranged by county for easy searching.

Dealer Contact Information

Dealer Program Section

517/373-9082

Fax: 517/373-0964

Business Licensing Division

517/373-9460

Fax: 517/335-2810

For information about dealer transactions, Frequently Asked Questions, dealer requirements, dealer newsletters, rules & regulations, dealer bulletins, the Dealer Manual, or information about operating a dealership, e-mail your question to: dealer@sos.state.mi.us

Illegal agents: A lose-lose situation for dealers

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The most recent Dealer Newsletter (**Spring 2000, Vol. 17, Issue 1**) included a reminder that dealers may not legally permit another person, office or organization to use their dealer license to conduct business, and that doing so may result in revocation of the dealer license. A dealer who allows an agent to conduct his/her own business while using the dealer's license violates the Michigan Vehicle Code, even if all of the transactions conducted by the agent are in the dealer's name and recorded in the dealer's police book.

Licensees express surprise when informed that not only have they jeopardized their dealer license, but they are also responsible for wrongdoing by agents, for transactions that the agents failed to report to the dealer. As a result of actions by agents, licensees have been required to pay restitution and have had sanctions imposed on their licenses. Typically, in these cases, agents fail to provide clear title to purchasers, fail to

forward tax and license fees to the Secretary of State, or commit frauds such as odometer rollbacks. Dealers also report that agents continue to do business in the dealer's name after the dealer attempts to end the relationship.

If you use agents, you should carefully review the steps you are taking to protect your business and license by insuring that all vehicles bought and sold are entered in your records, all titles are assigned to your business, and proper odometer disclosure is given with copies kept in your records. If you question whether your relationship with your agents complies with the law, contact the Dealer Program Section at (517) 373-9082.

When you terminate an agent or other employee, you should notify any auctions, brokers, dealers, or Secretary of State branch offices that would recognize the individual as your representative. Salvage Vehicle Agents must surrender their identification card to you if their employment is terminated.

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